IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO.43 OF 1998

The Commissioner of Income Tax
Nashik .. Applicant.

V/s.

Siddheshwar SSK Ltd. Silid .. Respondent.

Mr.A.S. Rao with Mr.Pankaj Kapoor for the applicant.

Mr.S.N. Inamdar with Mr.P. Vaidya for the respondent.

CORAM : V.C. DAGA &
J.P. DEVADHAR, JJ.

DATED : 12TH APRIL, 2005.

P.C. :

1. Heard the learned counsel for the parties. The Tribunal has referred following questions for the opinion of this Court, reading as under :

> Whether on the facts and in the circumstances of the case the ITAT relying on the decision of its Special Bench in the case of Shri Chhatrapati SSK Ltd. (198 ITR 78 - AT) was right in deleting the following additions by holding that the various funds/deposits collected by the assessee society out of the sugarcane purchase price payable to the cane growers are not trading receipts of the assessee ?
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> | | |
> |---|---|
> | 1. Non-refundable deposits | Rs.12,21,963 |
> | 2. Chief Minister's fund | Rs. 3,78,899 |
> | 3. Cane development fund | Rs.16,85,476 |
> | 4. Hutment fund | Rs. 1,89,449 |
> | 5. Small savings | Rs. 3,78,897 |
> | 6. Molasses storage fund | Rs. 9,940 |
> | 7. Sampt NRD | Rs.83,35,980 |

2. In so far as all other items except cane development fund are concerned, the issue is covered by the decision of the Apex Court in the case of **Siddheshwar S.S.K. Ltd. V/s. CIT [(2004) 270 ITR 1 (SC)]** in favour of the assessee and against the revenue and the issue of molasses storage fund is also covered in favour of the assessee and against the revenue by the decision of the Division Bench of this Court in the case of **Somaiya Organo Chemicals Ltd. V/s. CIT [216 ITR 295].**

3. So far as area development fund is concerned, the issue will have to be referred back to the Tribunal for consideration afresh as per the judgment of the Apex Court in the case of Siddheshwar S.S.K. Ltd. (supra). As such the said issue is remanded back to the Tribunal for consideration afresh.

4. The reference is disposed of in the above terms with no order as to costs.

(V.C. DAGA, J.)

(J.P. DEVADHAR, J.)